

EXHIBIT “H”

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DARLINGTON AMADASU, :
 :
Plaintiff :
 :
-v- : Case No. 1:01-cv-182
 : (Spiegel, J.)
 : (Black, M.J.)

MERCY FRANCISCAN HOSPITAL - :
WESTERN HILLS, et al., :
 :
Defendants :

- 0 -

The deposition of **DARLINGTON AMADASU**, scheduled to be taken before Susan K. Lee, CVR-CM, Court Reporter and Notary Public in and for the State of Ohio, at the law offices of Dinsmore & Shohl LLP, 255 East Fifth Street, Suite 1900, Cincinnati, Ohio, on the 8th day of November, 2006.

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COPY

APPEARANCES:

FOR THE DEFENDANTS: JENNIFER ORR MITCHELL, Esq.
Attorney at Law
255 East Fifth Street
Suite 1900
Cincinnati, Ohio 45202

KAREN A. CARROLL, Esq.
Attorney at Law
PNC Center
201 East Fifth Street
Suite 800
Cincinnati, Ohio 45202

- 0 -

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Amadasu, enclosing emergency motion to
take deposition, and 10/17/06 letter
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requesting dates for deposition.....4
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to respond to emergency motion to take
deposition.....4

1 MS. MITCHELL: This is Jennifer
2 Mitchell. I represent Dr. Berry in the lawsuit
3 filed against him by Darlington Amadasu. His
4 deposition was ordered by the Court to occur
5 today.

6 We are placing as part of the record
7 the Court's order dated 11/7/06, ordering Mr.
8 Amadasu to appear for his deposition. We'll
9 call that Exhibit 1 to this deposition.

10 As Exhibit Number 2 we will include my
11 letter to Mr. Amadasu dated October 27th, 2006,
12 enclosing a copy of our emergency motion to
13 take his deposition today, including the bases
14 for it, and also attaching a prior letter from
15 me to Mr. Amadasu dated October 17th, 2006,
16 requesting dates for his deposition prior to
17 having to file the motion, to which I received
18 no response. We'll call that packet of
19 materials Exhibit 2 to this deposition.

20 As Exhibit 3 we'll call the order of
21 the Court issued 11/2/06, requiring Mr. Amadasu
22 to respond to our emergency motion to take his
23 deposition on or before November 6th, if at
24 all, to which he did not respond. We'll call
25 that Exhibit 3.

1 For the record, I'd like to record that
2 I attempted to discuss this matter with Mr.
3 Amadasu yesterday and informed him that his
4 deposition was going to be taking place today
5 and that the Court had ordered it to take
6 place. He did not appear today.

7 MS. CARROLL: This is Karen Carroll on
8 behalf of all of the Mercy defendants, joining
9 in with the exhibits attached by Ms. Mitchell
10 and also asserting that correspondence was sent
11 to Mr. Amadasu requesting he provide dates for
12 his deposition, to which he did not respond,
13 and then the Mercy defendants were part and
14 parcel of the efforts to get the emergency
15 order for his deposition scheduled for today.

16 We have convened at the scheduled time
17 of 9:00. It is currently 9:40 a.m., and Mr.
18 Amadasu is not present. We are going to end
19 our vigil here and proceed to file something
20 with the Court.

- 0 -

C-E-R-T-I-F-I-C-A-T-I-O-N

STATE OF OHIO,

COUNTY OF HAMILTON, To-wit;


I, Susan K. Lee, CVR-CM, Court Reporter
and Notary Public in and for the State of Ohio, do
hereby certify;

That on the 8th day of November, 2006,
there was scheduled to appear before me **DARLINGTON**
AMADASU, as a witness in the previously entitled cause;

That the preceding statement was taken
by me via Stenomask and electronic recording and the
foregoing 5 pages contain a true, full and correct
transcription of said statement;

That I am not related to or in any way
associated with any of the parties to said cause of
action, or their counsel, and that I am not interested
in the event thereof.

IN WITNESS WHEREOF, I have hereunto set
my hand this 16th day of November, 2006.



Susan K. Lee, CVR-CM
My commission expires:
August 29, 2009

**United States District Court
Southern District of Ohio
Western Division**

DARLINGTON AMADASU,
Plaintiff,

Case No. 1:01-cv-182

vs.

Spiegel, J.
Black, M.J

MERCY FRANCISCAN HOSPITAL-
WESTERN HILLS, *et al.*,
Defendants.

ORDER

Plaintiff Amadasu having not filed a memorandum in opposition, and for good cause shown, Defendant's Emergency Motion to Take Deposition of Plaintiff Darlington Amadasu [on November 8, 2006] (*see* doc. 71-1) is hereby GRANTED.

Date: 11/7/06

s/Timothy S. Black

Timothy S. Black
United States Magistrate Judge

 **FILE**

Dinsmore & Shohl LLP
ATTORNEYS

Jennifer Orr Mitchell
513-977-8364
jennifer.mitchell@dinslaw.com

Admitted in Ohio and Kentucky

October 27, 2006

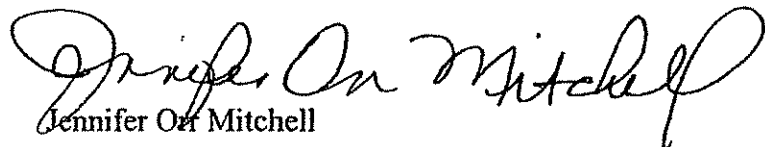
Darlington Amadasu
P.O. Box 6263
Cincinnati, OH 45206

Re: Darlington Amadasu v. Mercy Franciscan Hospital-Western Hills, et al.
United States District Court, Southern District of Ohio, Western Division
Case No. C-1-01-182

Dear Mr. Amadasu:

I have enclosed a copy of the Emergency Motion to Take Deposition of Plaintiff Darlington Amadasu which is being filed with the Court today. If you have any questions or concerns, please feel free to call me.

Very truly yours,


Jennifer Orr Mitchell

JOM/psa
Enclosure

cc: Karen A. Carroll, Esq.
Deborah R. Lydon, Esq.

EXHIBIT

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DARLINGTON AMADASU, pro se	:	Case No.: C-1-01-182
	:	
Plaintiff,	:	Judge Spiegel
	:	
v.	:	Magistrate Judge Black
	:	
	:	EMERGENCY MOTION TO TAKE
	:	DEPOSITION OF PLAINTIFF
MERCY FRANCISCAN HOSPITAL -	:	<u>DARLINGTON AMADASU</u>
WESTERN HILLS, et al.	:	<i>(Immediate Hearing Requested Hereon)</i>
	:	<i>(Attached Affidavit of Jennifer O. Mitchell)</i>
Defendants.	:	

Defendant Ravi B. Berry, M.D. ("Defendant Dr. Berry") hereby moves this Court, on an emergency basis, for an Order allowing his attorneys to continue the deposition of Plaintiff Darlington Amadasu ("Plaintiff"), pursuant to Federal Civil Rule 30(a)(2)(B), (d)(2) and (d)(3). Plaintiff's deposition was continued in progress when it was taken on March 28, 2002.¹ An additional deposition is needed for a fair examination of Plaintiff due to the length of time this matter was stayed and because Plaintiff delayed and impeded his examination at his prior deposition.² The following date and time for Plaintiffs' deposition have been scheduled by defense counsel:

Deponent:	Plaintiff Darlington Amadasu
Date and Time:	Wednesday, November 8, 2006 at 9:00 a.m.
Place:	Dinsmore & Shohl LLP
	1900 Chemed Center, 255 E. Fifth St.
	Cincinnati, OH 45202³

¹ Affidavit of Jennifer Orr Mitchell ("Mitchell Aff.") at ¶2.

² Mitchell Aff. at ¶3.

³ Mitchell Aff. at ¶4.

Despite repeated requests prior to his March 28, 2002 deposition, Plaintiff failed to provide documents and discovery responses so that defense counsel could fully prepare to take his deposition.⁴ Nevertheless, the deposition went forward with defense counsel hoping to obtain the information Plaintiff had to that point refused to provide.⁵ At the deposition, however, Plaintiff continued in his refusal to provide answers to questions and authorizations to which Defendants are entitled.⁶ In addition, Plaintiff was non-cooperative and argumentative for the duration of his examination, causing delay and impeding Defendants' ability to effectively depose him.⁷

For example, Plaintiff refused to provide standard background information (such as the names, ages, addresses, etc., of his children), information on his prior psychiatric care in New York and Salt Lake City, authorizations for the release of the records of the Crisis Stabilization Center (the facility to which he claims Dr. Berry's referral of him was improper), authorizations for the release of records relating to his residency programs, information on his insurance coverage relating to the hospitalization at issue in this lawsuit, information on the damages he alleges he suffered, and other such information necessary for Defendants to fully evaluate Plaintiff's claims.⁸

Despite the deposition lasting nearly 6 ½ hours, Defendants were not able to get beyond the basics due to Plaintiffs' antics.⁹ Thereafter, as the Court is aware, this case was stayed for approximately 3 years due to liquidation proceedings involving Defendant Dr. Berry's insurer.¹⁰

⁴ Mitchell Aff. at ¶5.

⁵ Id.

⁶ Mitchell Aff. at ¶6.

⁷ Id.

⁸ Mitchell Aff. at ¶7.

⁹ Mitchell Aff. at ¶8.

¹⁰ Mitchell Aff. at ¶9.

Plaintiff's continuation deposition is necessary to obtain updated information from Plaintiff, in addition to information on those topics he was not willing to address at his prior deposition.¹¹

Defendant Dr. Berry anticipates that Plaintiff will continue with his evasive behavior at the continuation of his deposition, which defense counsel intend to take on November 8, 2006.¹² Given that the discovery cut-off is November 17, 2006 and Plaintiff has not responded to correspondence requesting supplementation of his deficient discovery responses and a date for his deposition, Defendant Dr. Berry was forced to choose a date that was agreeable to defense counsel and file this Motion, requesting an immediate hearing, if necessary.¹³ Defendant Dr. Berry has not yet filed a Motion to Compel with respect to Plaintiff's deficient and evasive written discovery responses in the hopes that Plaintiff will cooperate and supplement as required by Federal Civil Rule 26. However, if Plaintiff does not do so in the immediate future, Dr. Berry will file such a motion prior to the discovery cut-off date, in accordance with Judge Spiegel's standing orders.

If the Court does not require a hearing on this Motion, Defendant Dr. Berry respectfully requests that this Court grant his Motion and Order the deposition of Plaintiff to be taken on November 8, 2006. A proposed Order is attached, for the Court's convenience.

Finally, given Plaintiffs' conduct, Defendant Dr. Berry requests that this Court award him his reasonable costs and attorneys fees relating to this Motion and the prior deposition, pursuant to Federal Civil Rule 30(d)(3).

¹¹ Id.

¹² Mitchell Aff. at ¶10.

¹³ Mitchell Aff. at ¶11.

Respectfully submitted,

/s/ Jennifer Orr Mitchell

Deborah R. Lydon (0013322)

Jennifer Orr Mitchell (0069594)

Matthew S. Arend (0079688)

DINSMORE & SHOHL LLP

1900 Chemed Center

255 East Fifth Street

Cincinnati, OH 45202

(513) 977-8200

Counsel for Defendant Dr. Berry

CERTIFICATE OF SERVICE

I certify that on October 27th, 2006 I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all except Plaintiff Darlington Amadasu. I also sent the foregoing via U.S. mail to Plaintiff at the address listed below:

Darlington Amadasu, pro se
P.O. Box 6263
Cincinnati, OH 45206

/s/ Jennifer Orr Mitchell

Jennifer Orr Mitchell

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DARLINGTON AMADASU, pro se	:	Case No.: C-1-01-182
	:	
Plaintiff,	:	Judge Spiegel
	:	
v.	:	Magistrate Judge Sherman
	:	
MERCY FRANCISCAN HOSPITAL -	:	
WESTERN HILLS, et al.	:	
	:	AFFIDAVIT OF
Defendants.	:	<u>JENNIFER ORR MITCHELL, ESQ.</u>

County of Hamilton)
) ss:
State of Ohio)

Jennifer Orr Mitchell, Esq., being duly sworn and cautioned, for her Affidavit in support of Defendant Dr. Berry's Emergency Motion to Take Deposition of Plaintiff Darlington Amadasu, states as follows:

1. My name is Jennifer Orr Mitchell. I am counsel for Defendant Ravi B. Berry, M.D. ("Dr. Berry"), in the above-captioned matter. I make this Affidavit on my own personal knowledge and am competent to testify as to all matters set forth herein.

2. Plaintiff's deposition was continued in progress when it was taken on March 28, 2002.

3. An additional deposition is needed for a fair examination of Plaintiff due to the length of time this matter was stayed and because Plaintiff delayed and impeded his examination at his prior deposition.

4. I spoke with counsel for co-Defendants, Karen Carroll, and the following date and time for Plaintiffs' deposition were scheduled:

Deponent: Plaintiff Darlington Amadasu
Date and Time: Wednesday, November 8, 2006 at 9:00 a.m.
Place: Dinsmore & Shohl LLP
1900 Chemed Center
255 E. Fifth St.
Cincinnati, OH 45202

5. Despite repeated requests prior to his March 28, 2002 deposition, Plaintiff failed to provide documents and discovery responses so that defense counsel could fully prepare to take his deposition. Nevertheless, the deposition went forward with defense counsel hoping to obtain the information Plaintiff had to that point refused to provide.

6. At the deposition, however, Plaintiff continued in his refusal to provide answers to questions and authorizations to which Defendants are entitled. In addition, Plaintiff was non-cooperative and argumentative for the duration of his examination, causing delay and impeding Defendants' ability to effectively depose him.

7. For example, Plaintiff refused to provide standard background information (such as the names, ages, addresses, etc., of his children), information on his prior psychiatric care in New York and Salt Lake City, authorizations for the release of the records of the Crisis Stabilization Center (the facility to which he claims Dr. Berry's referral of him was improper), authorizations for the release of records relating to his residency programs, information on his insurance coverage relating to the hospitalization at issue in this lawsuit, information on the damages he alleges he suffered, and other such information necessary for Defendants to fully evaluate Plaintiff's claims.

8. Despite the deposition lasting nearly 6 ½ hours, Defendants were not able to get beyond the basics due to Plaintiffs' antics.

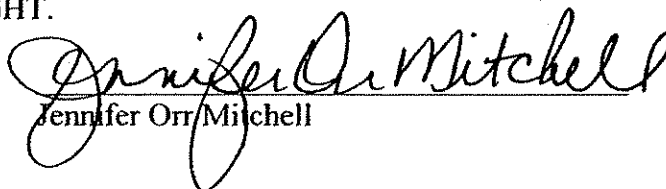
9. Thereafter, as the Court is aware, this case was stayed for approximately 3 years due to liquidation proceedings involving Defendant Dr. Berry's insurer. Plaintiff's continuation

deposition is necessary to obtain updated information from Plaintiff, in addition to information on those topics he was not willing to address at his prior deposition.

10. We anticipate that Plaintiff will continue with his evasive behavior at the continuation of his deposition, which defense counsel intend to take on November 8, 2006.

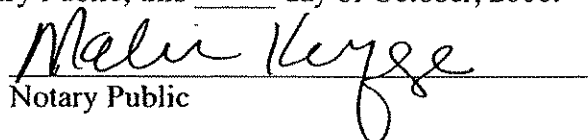
11. Plaintiff has not responded to correspondence requesting supplementation of his deficient discovery responses and a date for his deposition. (Exhibit 1) As a result, a date that was agreeable to defense counsel was chosen.

FURTHER AFFIANT SAYETH NAUGHT.


Jennifer Orr Mitchell

County of Hamilton)
) ss:
State of Ohio)

Sworn to and subscribed before me, a Notary Public, this 27th day of October, 2006.


Notary Public



MELISSA L. KORFHAGE
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Date. Section 147.03 O.R.C.

EXHIBIT 1



Jennifer Orr Mitchell
513-977-8364
jennifer.mitchell@dinslaw.com

Admitted in Ohio and Kentucky

October 17, 2006

Darlington Amadasu
P.O. Box 6263
Cincinnati, OH 45206

Re: Darlington Amadasu v. Mercy Franciscan Hospital-Western Hills, et al.
United States District Court, Southern District of Ohio, Western Division
Case No. C-1-01-182

Dear Mr. Amadasu:

Given the upcoming discovery deadline of November 17, 2006, I would appreciate if you would supplement your responses to the Interrogatories and Requests for Production of Documents that we previously served upon you on behalf of Dr. Berry, prior to the stay of this lawsuit. As you may recall you objected to many of the requests and would not respond. In particular, I ask that you provide at least the following information in supplementation:

- a. Identification of all lawsuits in which you have been a party from 1990 to present.
- b. All correspondence between you and Defendant hospitals regarding you.
- c. All correspondence between you and any other individual or entities related to issues in this case.
- d. Identification of all of your employers, educational facilities and health care providers from 1990 to the present.
- e. All documents related to your employment from 1990 to the present, including but not limited to wage records and personnel records.
- f. All records reflecting health care provided to you from 1990 to the present, including but not limited to records of charges for same and related payment information.
- g. All records relating to your education received from 1990 to the present, including but not limited to medical residency training.
- h. All of your tax returns, with schedules, for the years 1990 to the present.
- i. Complete responses to the discovery requests previously served on you, including authorizations, so Defendants may obtain relevant documents on their own, to the extent you have not done so by responding to the items listed above.

Darlington Amadasu

Page 2

- j. All documents relating to and an itemization of your income from every source from 1990 to present, including income from disability payments and other financial assistance received by you.

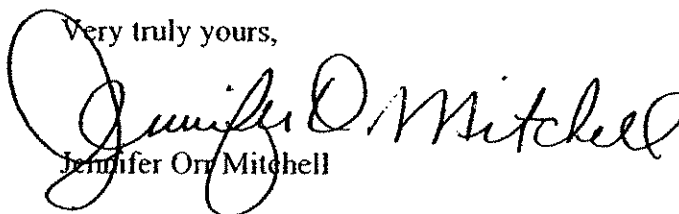
I have enclosed new authorizations in the event you can no longer locate those previously provided to you. We have requested these in the past and are entitled to them; however, you refused to sign them and asserted frivolous objections. The Judge then ordered you to sign them, yet you have not done so. You have placed your medical conditions and financial information at issue by filing this lawsuit and making the claims you have against Dr. Berry. We are entitled to complete answers and signed authorizations.

In addition, we would like to complete your deposition which was continued in progress. If you could provide potential dates and times on which you are available before November 17, 2006, we would appreciate it.

I would request that you respond with the requested responses, authorizations, and deposition dates on or before October 24, 2006. If you do not do so, I will notice your deposition for a date and time that are convenient for the Defendants and will ask the Court to intervene and require you to provide the information and authorizations to which we are entitled. Please consider this my last attempt to resolve these issues without involving the Court.

I look forward to hearing from you and thank you in advance for your anticipated cooperation.

Very truly yours,



Jennifer Orr Mitchell

JOM/rw
Enclosures

cc: Karen A. Carroll, Esq. (w/ encls.)
Deborah R. Lydon, Esq. (w/o encls.)

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DARLINGTON AMADASU, pro se	:	Case No.: C-1-01-182
	:	
Plaintiff,	:	Judge Spiegel
	:	
v.	:	Magistrate Judge Black
	:	
	:	
MERCY FRANCISCAN HOSPITAL -	:	
WESTERN HILLS, et al.	:	
	:	ORDER GRANTING EMERGENCY
	:	MOTION TO TAKE DEPOSITION OF
Defendants.	:	<u>PLAINTIFF DARLINGTON AMADASU</u>

This Matter came to be heard on Defendant Dr. Berry's Emergency Motion to Take Deposition of Plaintiff Darlington Amadasu. Having considered the Motion, the Court finds it well taken and hereby orders that Plaintiff's deposition is to occur on November 8, 2006, beginning at 9:00 a.m. and continuing until finished, at the office of Dr. Berry's counsel. In addition, this Court finds that this Motion was necessary as a result of Plaintiff's evasive conduct and, therefore, orders Plaintiff to pay Dr. Berry's reasonable costs and attorney fees associated with filing this Motion and taking the prior deposition.

IT IS SO ORDERED.

Date: _____

UNITED STATES DISTRICT JUDGE

United States District Court
Southern District of Ohio
Western Division

DARLINGTON AMADASU,
Plaintiff,

Case No. 1:01-cv-182

vs.

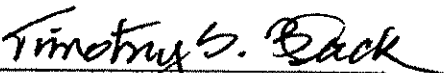
Spiegel, J.
Black, M.J

MERCY FRANCISCAN HOSPITAL-
WESTERN HILLS, *et al.*,
Defendants.

ORDER

Defendant Ravi B. Berry, M.D. having filed an Emergency Motion to Take Deposition of Plaintiff Darlington Amadasu [on November 8, 2006] (*see* doc. 71-1), the Court ORDERS Plaintiff to file his memorandum *contra*, if any, by November 6, 2006 at 12:00 p.m.

Date: 11/2/06


Timothy S. Black
United States Magistrate Judge